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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Sacramento)

THE PEOPLE,

Plaintiff and Respondent,

v.

EDWARD VLADIMIROV ANDROSHCHUK,

Defendant and Appellant.

C061044

(Super. Ct. No. 07F07669)

This case comes to us pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*).¹ The case involved a two-month jury trial of 22 criminal counts, presided over by the Honorable Michael A. Savage. We commend Judge Savage as, having reviewed the lengthy record as required by *Wende*, we find no arguable error in favor

¹ Counsel filed an opening brief that sets forth the facts of the case and asks this court to review the record and determine whether there are any arguable issues on appeal. (*Wende, supra*, 25 Cal.3d 436.) Defendant was advised by counsel of the right to file a supplemental brief within 30 days of the date of filing of the opening brief. More than 30 days elapsed, and we received no communication from defendant.

of defendant and, with only a minor modification, affirm the judgment.

We provide the following brief description of the facts and procedural history of the case. (See *People v. Kelly* (2006) 40 Cal.4th 106, 110, 124.)

Defendant Edward Vladimirov Androshchuk was convicted of sexually assaulting three women, one in 2004, one in 2005, and one in 2006. Defendant's identity as the perpetrator was not at issue. The defense was one of consent. He contended that the acts were those of prostitution and that the women reported the incidents to the police as rapes because he did not pay them.

In March 2004, R.D. was walking the streets looking for things to "recycle." She was homeless and supported herself by prostitution and "recycling," which included stealing copper wire and aluminum and selling it. While she was in the parking lot of a 7-Eleven convenience store, defendant, who was in the front passenger seat of a car, asked her if she wanted a ride. She accepted his offer and got in the backseat of the car.

When the driver turned onto Elkhorn Boulevard, she told him he had turned the wrong way. Shortly thereafter, defendant hit her in the face and jumped over the seat into the back and told her to shut up, at which point she became scared and "started to yell." Defendant slapped her when she continued to cry and scream. They pulled into a business complex and the driver got out of the car. Defendant then sexually assaulted her. After the assault, she tried to leave but defendant forced her to orally copulate the driver. Defendant then sexually assaulted

her again before he let her leave. Defendant and his cohort drove off laughing.

In July 2005, L.S. encountered defendant as she was walking to catch the last light rail train home. Defendant pulled up to her and asked her if she needed a ride. He was polite so she accepted. When defendant made a left turn off Watt Avenue, she told him he had made a wrong turn. He told her to shut up and parked the car in a residential neighborhood. Defendant began to fondle her and take off her pants. When she asked him to stop and started fighting him, he started hitting her in the face and punching her. Defendant then sexually assaulted her. During the assault, L.S. lied and told him she was dying of cancer and had a teenage daughter. Defendant suddenly started crying and apologized. He drove her to the light rail station and dropped her off.

In July 2006, D.L. saw defendant in the passenger seat of a car. She was a prostitute but not working at the moment so, when defendant nodded his head at her the way that customers do, she "flipped him off." Later that night, she saw defendant again when she was near the Shell convenience store. Defendant asked her if she wanted to go to Thunder Valley Casino. He said his driver was his chauffeur and asked if she could get another girl to join them. D.L. agreed and they began to drive around to look for her friend, who had just recently left the Shell station. As they were driving, defendant put a choke hold on her. She asked defendant why he was trying to hurt her and he

told her to shut up. They pulled into a 7-Eleven convenience store and the driver got out and bought condoms.

They drove to an area near some apartments. The driver got out of the car and left. Defendant then sexually assaulted her repeatedly over a period of almost five hours. He finally let her run away.

After over a week of deliberation, the jury found defendant guilty on 15 counts: three counts of aggravated kidnapping (Pen. Code, § 209, subd. (b)(1)),² three counts of sexual battery (§ 243.4, subd. (a)), two counts of forcible rape (§ 261, subd. (a)(2)), one count of rape in concert (§ 264.1), one count of oral copulation in concert (§ 288a, subd. (d)), two counts of forcible sodomy (§ 286, subd. (c)(2)), two counts of forcible oral copulation (§ 288a, subd. (c)(2)), and one count of sexual penetration by force (§ 289, subd. (a)(1)). Defendant was sentenced to 45 years, plus an indeterminate term of 75 years to life in state prison.

We note one oversight which requires correction. Defendant was convicted of several offenses which trigger the statutory requirement of registration as a sex offender for the rest of his life. (§ 290.) At sentencing, the trial court failed to order defendant to register as a sex offender. We will modify the judgment to so require. (*People v. Monroe* (1985) 168 Cal.App.3d 1205, 1209; cf. *People v. Terrell* (1999)

² Further undesignated statutory references are to the Penal Code.

69 Cal.App.4th 1246, 1257-1258 [no error in failing to order defendant to comply with narcotics offender registration requirement (Health & Saf. Code, § 11590, subd. (a)].)

The recent amendments to section 4019 do not operate to modify defendant's entitlement to credit, as he was required to register as a sex offender, and committed for serious and/or violent felonies. (§ 4019, subds. (b)(1), (2) & (c)(1), (2); Stats. 2009, 3d Ex. Sess., ch. 28, § 50.)

Having undertaken an examination of the entire record, we find no arguable error that would result in a disposition more favorable to defendant.

DISPOSITION

The judgment is modified to require defendant to register as a sex offender and the trial court is directed to prepare an amended abstract accordingly and to forward a certified copy to the Department of Corrections and Rehabilitation. As modified, the judgment is affirmed.

SIMS, Acting P. J.

We concur:

HULL, J.

CANTIL-SAKAUYE, J.